

## REMARKS

Reconsideration and allowance of the captioned application in view of the remarks that follow is respectfully requested. These comments are intended to advance the case to issue without delay. The claims in the application are 1 and 3-27. No claim amendments are made in this response to the Office Action dated April 20, 2004.

Claims 1,3, 4, 7, 8, 10-13, 15, 18, 21 and 23 remain rejected under 35 USC §103(a) as being unpatentable over Voss et al. Voss is cited for the reasons on record as well as the additional reason in the current Office Action. In the current Office Action it is argued the fact that Voss discloses an amine oxide; and since Voss' amine oxide is organic in nature, the Examiner concludes that the organic amine oxide is the organic solvent. It is further stated that in a claim to a composition it is irrelevant as to whether the organic component is claimed as a solvent or something other than a solvent. This rejection is respectfully traversed.

Applicant submits that in view of Voss it would not be obvious for one skilled in the art to include an organic material as a solvent for the chelator/amine mixtures as claimed in the present application.

An essential feature of claim 1 of the instant application is the presence of a solution in an organic solvent of a transition metal chelator anion and an organic cation. No such solution is disclosed in Voss. Voss is concerned with solutions in water; this is made clear by the numerous references to pH (for example, column 5, line 68 onwards), which is not relevant to non-aqueous solutions, and by the examples, all of which comprise water as the major component (for example, Example VIII comprises 57.18% water and Example IX comprises 73% water – these being the only composition examples given).

Applicant acknowledges that an amine oxide is organic and can be used as a solvent for cellulose; i.e. applicant does not argue that an amine oxide is not an

organic solvent (as it is under some circumstances). The argument respectfully presented is that whilst Voss may disclose an “organic solvent” and a transition metal chelator anion/organic cation, it does not disclose a solution of said chelator salt in the amine oxide. The chelator salt, when present in solution, is present as a solution in water and not as a solution in an organic solvent. That Voss does not disclose a solution in an organic solvent is made further clear by the definition of “solvent” previously provided: “That part of a solution that is present in the largest amount”. The examples show that amine oxide is only ever present at a level several times below that of the water also present – the solutions, therefore, have water as the solvent and not the amine oxide; there is no disclosure of a chelator salt solution in an organic solvent.

Applicant further submits that claim 1 of the instant application does not comprise a statement regarding the purpose or function of a chemical component; rather, it comprises specific technical features each of which is independently known to the person skilled in the art. The feature “a solution in an organic solvent...” is definitive and merely requires that a solution in an organic solvent be present in the composition.

It is believed that Examiner has already acknowledged the further feature by which the present invention has novelty over Voss: the specific cations of the instant invention not being disclosed by Voss.

The instant invention concerns anti-microbial compositions comprising a solution in an organic solvent of chelators having specific cations, said cations rendering the chelator salts more compatible with the organic solvent and the anti-microbial compositions more efficacious as a result (see page 8, lines 6-25 and the Examples). Voss is concerned with solutions in water and not in organic solvents (*vide supra*). The problem of improving the compatibility of chelator salts with organic solvent is not contemplated by Voss. Voss offers no guidance as to how to

formulate chelator salts in organic solvent, such systems not being disclosed therein. Further, there is no suggestion in Voss as to the selection of cations for chelator anions that is at the heart of the instant invention.

For the above reasons, it is respectfully asserted that it is not obvious from Voss to include an organic material that is a solvent for the chelator/amine mixtures therein disclosed. Accordingly, withdrawal of this rejection under 35 USC §103(a) is respectfully requested.

Applicant acknowledges with thanks the Examiner's withdrawal of the rejections under 35 USC 102(b) by Kraskin in view of applicant's previous arguments.

Claim 14 is rejected under 35 USC 112, second paragraph, as being indefinite. It is asserted that in the Office Action that the phrase "other liquid components" is a relative term which renders the claim indefinite. It is further stated that the phrase "other liquid components" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Applicant submits that to one skilled in the art claim 14 is definite and particularly points out and distinctly claims the subject matter regarded as the invention.


In claim 14, the meaning of the term "other liquid components" is clear when it is read in the context of claim 13, upon which it is dependent. Claim 13 mentions that "less than 50% by weight of water is present...". Water is, of course, a liquid. So, when claim 14 refers to the ratio of "other liquid components" to water, it means all liquid components other than water.

Since the meaning of the term "other liquid components" and the scope of claim 14 would be clear and definitive to one skilled in the art, withdrawal of this rejection under 35 USC 112, second paragraph is respectfully requested.

In light of the above amendments and remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kevin J. Stein", is written over a horizontal line.

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